INDEX TO NO. 8274.

	Page
Docket Entries	1
Memorandum Opinion	2
Petition for Review	5
Stipulation	9
Designation of Record	9
Motion to Modify Rules as to Designation	11
Certificate	12

INDEX TO NO. 8007.

	Page
Petition	13
Findings of Fact and Opinion	27
Decision	33
Revision of Findings of Fact	34
Stipulation	35
Exhibits	40
Petition for Review	105
Transcript of Testimony	108
Miss Elizabeth C. Pace—	
Direct Examination	110
Cross-Examination	120
William E. Schooley—	
Direct Examination	118
Cross-Examination	119
Re-direct Examination	120
Designation of Record	127
Certificate	129

PROCEEDINGS IN UNITED STATES COURT OF APPEALS.

		Page
Minute entry of argument and submission		130
Opinion, Vinson, J.		131
Decree		139
Designation of record		139
Clerk's certificate	(omitted in printing)	140
Stipulation as to record		140
Order allowing certiorari		141

IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA

APRIL TERM, 1941

No. 8007

DISTRICT OF COLUMBIA, *Petitioner,*

v.

ELIZABETH C. PACE, *Respondent.*

Petition for Revew of Decision of the Board of Tax Appeals for the District of Columbia

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APPENDIX TO BRIEF FOR PETITIONER

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1 *Docket Entries*

March 1, 1942	Case remanded by Court of Appeals; Hearing set for March 16, 1942.
March 13, 1942	Hearing changed to March 13, 1942; Hearing; Stipulation filed—To use former testimony.
March 25, 1942	Memorandum Opinion and Decision.
April 22, 1942	Petition for review filed by Petitioner.
May 21, 1942	Designation of Record and Motion to Modify Designation of Record: Filed

2

Endorsed: Received and filed Mar 25 1942 Board of Tax Appeals for the District of Columbia

Opinion No. 328

Board of Tax Appeals for the District of Columbia

Docket No. 456

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Memorandum Opinion

This proceeding originally came before the Board on the petition filed herein, and after a hearing thereon the Board held that on the authority of Sweeney v. District of Columbia, 113 F(2) 25 (cer. denied 310 U. S. 631) that the decedent, Charles F. Pace, was not domiciled in the District of Columbia at the time of his death, and that the inheritance tax here involved was, for that reason, invalid, and was erroneously collected from the petitioner. From such decision the District of Columbia appealed to the United States Court of Appeals for the District of Columbia. Before such appeal was heard by the Court of Appeals, the Supreme Court of the United States decided District of Columbia v. Murphy, and Same v. DeHart, 314 U. S. 441. The District of Columbia thereupon filed a motion in the Court of Appeals that the cause be remanded to the Board to be reconsidered in the light of the decision of the Supreme Court in the Murphy and DeHarte cases. Such motion was granted and there was entered by the Court of Appeals the order following:

"It is now ordered and adjudged by this Court that this case be, and it is hereby, remanded to the Board of Tax Appeals for the District of Columbia for further proceeding in conformity with the opinion of the Supreme Court of the United States in No. 58, October Term, 1941, District

of Columbia v. Murphy, and No. 59, October Term, 1941, District of Columbia v. DeHart, decided December 15, 1941."

3 The Mandate of the Court of Appeals to the Board, containing the above order was filed with the Board on March 1, 1942.

On March 13, 1942, the parties to this proceeding filed with the Board the stipulation following:

"It is hereby stipulated that the evidence adduced at the original hearing in the above entitled proceeding shall be considered as the evidence on rehearing in accordance with the mandate of the Court of Appeals without further testimony."

Before the Board could reconsider the testimony adduced at the original hearing in the light of the decision of the Supreme Court in the Murphy and DeHart cases, to wit, on March 16, 1942, the Court of Appeals rendered its decision Beedy v. District of Columbia, ... App. D. C. ..., in which decision the Court of Appeals interpreted the decision of the Supreme Court in the cases just mentioned.

The Board has now reconsidered the evidence adduced at the original hearing, and after such reconsideration the Board adopts as its Findings of Fact on rehearing, the Findings of Fact made in respect of the original hearing, with the exceptions following.

The evidence adduced has not, in the mind of the Board, produced the belief that the decedent during his residence in the District of Columbia always had a fixed and definite intent to return and take up his home in Florida when he should have been separated from the Federal service, and for that reason the Board cannot find that the decedent has overcome the presumption, arising from his maintaining a home in the District, that he was domiciled therein.

The Supreme Court in Murphy v. District of Columbia, and DeHart v. District of Columbia, 314 U. S. 441, said that persons are domiciled in the District of Columbia who live here and have no fixed and definite intent to return

and make their home where they formerly domiciled. "The place where a man lives," said the Supreme Court, "is properly taken to be his domicile until facts adduced establish the contrary". And later the Court laid down the general rule:

4 "In order to retain his former domicile, one who comes to the District to enter Government service must always have a fixed and definite intent to return and take up his home there when separated from the service. A mere sentimental attachment will not hold the old domicile. And residence in the District with a nearly equal readiness to go back where one came from or to any other community offering advantages upon the termination of service is not enough."

The Board, therefore, believes that at the time of his death the decedent, Charles F. Pace, was domiciled in the District of Columbia. For that reason the Board holds that the inheritance tax here involved was not erroneously collected by the District of Columbia from the petitioner, and that the petitioner is not entitled to any refund on account thereof.

Decision will be entered for the respondent.

JO. V. MORGAN,
Member Sole

March 25, 1942

5 Endorsed: Received and filed Apr 22 1942 Board of Tax Appeals for the District of Columbia

United States Court of Appeals for the District of Columbia Filed Jun 1-1942 Joseph W. Stewart Clerk

Board of Tax Appeals for the District of Columbia

Docket No. 456

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Petition of Elizabeth C. Pace, taxpayer, for review by the United States Court of Appeals for the District of Columbia of the Memorandum Opinion, No. 328, of the Board of Tax Appeals for the District of Columbia.

Elizabeth C. Pace, Taxpayer, the petitioner in this cause, by George H. Happ, Elmer E. Hazard and George W. Thames, her attorneys, files this petition for review by the United States Court of Appeals for the District of Columbia of the Memorandum Opinion, No. 328, of the Board of Tax Appeals for the District of Columbia rendered March 25, 1942, determining that no sum as an inheritance tax on personal prouerty held jointly with Charles F. Pace, deceased, was erroneously collected by the District of Columbia from petitioner, and that petitioner is not entitled to any refund thereof.

I.

The petitioner, an individual, is a citizen of the United States, a resident of the State of Florida, temporarily residing in the District of Columbia, and is the sister of the said Charles F. Pace, deceased.

II.

(a) The controversy involves the domocile of Charles F. Pace deceased, and the validity of the assessment and collection by the assessing and collecting authorities of the District of Columbia of an inheritance tax upon the transfer of an alleged taxable portion of personal property held jointly by the petitioner and said decedent.

(b) Charles F. Pace died in the District of Columbia on March 20, 1940. In the year 1913 he journeyed from his native State of Florida, where he maintained his legal domicile, to the District of Columbia to accept a position of uncertain and indefinite tenure under the Congress of the United States, and was continuously employed by the United States Government in the District of Columbia up to the date of his death, most of said period serving as Financial Clerk for the United States Senate. Decedent was at all times from the date of his majority to the date of his death qualified to exercise the right of franchise in Bradford County, State of Florida, and did avail himself of his right to vote in all regular elections held in said County, paying all poll taxes as required by the laws of said State.

(c) The decedent, Charles F. Pace, at all times while maintaining his temporary residence in the District of Columbia displayed a pronounced interest in the community affairs of his native Town of Starke, Bradford County, State of Florida, and there maintained a warehouse wherein he stored his household effects. He extensively dealt in property holdings in the State of Florida, and kept a sizeable bank account in said State. He at no time owned real estate in the District of Columbia, but occupied rented apartments while employed by the Federal Government.

(d) The District Court of the United States for the District of Columbia, in regular proceedings duly had, Administration No. 56,643, held that the said Charles F. Pace departed this life a resident of the Town of Starke, Bradford County, State of Florida.

(e) Within the time prescribed by law the petitioner filed an inheritance tax return with the Assessor showing that at the time of his death the decedent and the petitioner were the joint owners or holders of accounts in a building and loan association and trust company, both in the District of Columbia, in the aggregate amount of $44,343.64. Thereafter, the Assessor assessed against the petitioner an

inheritance tax in the sum of $605.15 computed upon one-half of the amount of said joint accounts. On December 20, 1940, the respondent paid said tax to the Collector of Taxes of the District of Columbia under protest in writing, and appealed from said assessment to the Board of Tax Appeals.

On June 25, 1941 the Board of Tax Appeals for the District of Columbia, after proceedings duly had, rendered a decision, based upon an opinion holding that the decedent was domiciled in the State of Florida at the time of his death, adjudging and determining that the above mentioned tax was erroneously collected, and that the petitioner was entitled to a refund. The District of Columbia on
7 July 23, 1941 petitioned for a review of said decision by the United States Court of Appeals for the District of Calumbia, and the proceedings were transmitted to said Appellate Court where they were formally filed as District of Columbia, petitioner, vs. Elizabeth C. Pace, respondent, Docket No. 8007.

The Court of Appeals, upon motion and consent answer, entered a judgment on February 12, 1942, remanding said cause to the Board of Tax Appeals for the District of Columbia for further proceedings in conformity with the opinion of the Supreme Court of the United States in No. 58, October Term, District of Columbia vs. Murphy, and No. 59, October Term, District of Columbia vs. Hart, decided December 15, 1941. Upon stipulation by both parties to said proceedings that the evidence adduced at the original hearing be considered as the evidence on rehearing, the Tax Board held a rehearing in said cause on March 13, 1941, and on March 25, 1941, rendered a Memorandum Opinion, No. 328, from which petitioner herein petitions for a review.

III.

The petitioner being aggreved by the Memorandum Opinion, No. 328 of the Board of Tax Appeals for the District of Columbia, desires to obtain a review thereof by

the United States Court of Appeals for the District of Columbia.

GEORGE H. HAPP,
600 F Street N.W.,
Washington, D. C.
ELMER E. HAZARD,
Atlantic National Bank Bldg.,
Jacksonville, Fla.
GEO. W. THAMES,
Atlantic National Bank Bldg.,
Jacksonville, Fla.,
Attorneys for Petitioner.

DISTRICT OF COLUMBIA, ss:.

George H. Happ, being duly sworn, says that he is counsel of record in the foregoing cause; that as such counsel he is authorized to verify the foregoing petition for
8 review; that he has read the said petition and is familiar with the statements contained therein; and that the statements made are true to the best of his knowledge, information and belief.

GEO. H. HAPP,
Of Counsel.

Subscribed and sworn to before me this 22nd day of April, 1942.

GEORGE CANTON,
Notary Public, D. C.

My Commission expires Dec. 1, 1942.

(Seal)

9 Endorsed: Received and filed Mar 13 1942 Board of Tax Appeals for the District of Columbia.

Board of Tax Appeals for the District of Columbia

Docket No. 456

DISTRICT OF COLUMBIA, *Petitioner*,

v.

ELIZABETH C. PACE, Executrix of the Estate of Charles F. Pace, deceased, *Respondent*.

Stipulation

It is hereby stipulated that the evidence adduced at the original hearing in the above entitled proceeding shall be considered as the evidence on rehearing in accordance with the mandate of the Court of Appeals without further testimony.

GLENN SIMMON
Assistant Corporation Counsel, D. C.,
Attorney for Petitioner.
GEORGE H. HAPP,
Attorney for Respondent.

10 Endorsed: Received and Filed May 21 1942 Board of Tax Appeals for the District of Columbia

Docket No. 456

Board of Tax Appeals for the District of Columbia

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Designation of Record

To the Clerk of the Board of Tax Appeals:

The petitioner, by reference, includes in and makes a part of his t anscript of record for review by the United

States Court of Appeals for the District of Columbia the record in cause numbered 8007, January Term, 1942, before that Court, and you are hereby requested to prepare, certify and transmit to the Clerk of that Court, with reference to the petition for review heretofore filed by the petitioner in the above entitled cause, a transcript of record in the above cause, prepared and transmitted as required by law and the rules of said Court, and to include in said transcript of record the following documents or certified copies thereof, to wit:

1. The docket entries of all proceedings before the Board of Tax Appeals subsequent to February 12, 1942.

2. Memorandum Opinion of the Board of Tax Appeals, No. 328, dated March 25, 1942.

3. Petition for review, with date of filing.

4. Stipulation of evidence to be considered on rehearing by the Board of Tax Appeals in accordance with the mandate of the Court of Appeals without further testimony, with date of filing.

5. This designation of record, with Motion pertaining thereto.

GEO. H. HAPP,
Of Counsel for Petitioner.

Service of the foregoing Designation of Record acknowledged May 21, 1942.

GLENN SIMMON,
Of Counsel for Respondent.

11 Endorsed: Received and Filed May 21 1942 Board of Tax Appeals for the District of Columbia

Bd. Tax Appls. for the Dist. of Columbia

Docket No. 456

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Motion to Modify Requirements of Rules as to Designation of Record

Now comes the petitioner, and showing to the Board that this cause has heretofore been to the United States Court of Appeals for the District of Columbia in cause numbered 8007, January Term, 1942, on its docket, in which a record is on file, and that, therefore, it is unnecessary in the designation of record here to include pleadings before the Board, original findings of fact and opinion of the Board, original decision of the Board, the original transcript of testimony, statement of evidence or stipulation, but that it is sufficient for all practical purposes to include in the said record the proceedings subsequent to the coming down of the mandate of the said Court of Appeals:

Moves the Board to permit a designation of record to be filed herein which shall adopt by reference and without reproduction the entire record in said Court of Appeals in said cause numbered 8007, January Term, 1942, specifically designating, in addition thereto, only the proceedings herein subsequent to the coming down of the mandate from the said Court of Appeals, namely: The docket entries of all proceedings before the Board of Tax Appeals subsequent to February 12, 1942, the Memorandum Opinion of the Board of Tax Appeals, No. 328, dated March 25, 1942, the Petition for review, with date of filing, the Stipulation of evidence to be considered on rehearing by the Board of Tax Appeals in accordance with the mandate of the Court

of Appeals without further testimony, with date of filing, and this designation of record.

GEO. H. HAPP,
Of Counsel for Petitioner.

Acknowledgment of Service and Consent to the above Motion, May 21, 1942.

GLENN SIMMON,
Of Counsel for Respondent.

Granted: May 21, 1942
JO V. MORGAN,
Member Sole.

12 Board of Tax Appeals for the District of Columbia

Docket No. 456

ELIZABETH C. PACE, *Petitioner,*

v.

DISTRICT OF COLUMBIA, *Respondent.*

Certificate

I, PHYLLIS R. LIBERTI, Clerk of the Board of Tax Appeals for the District of Columbia, do hereby certify that the foregoing pages 1 to 13, inclusive, contain and are a true copy of the transcript of record, papers and proceedings on file and of record in my office as called for by the Designation of Record in the Petition for Review in the appeal as above numbered and entitled.

In testimony whereof, I hereunto set my hand and affix the seal of the Board of Tax Appeals for the District of Columbia, this 27th day of May, 1942.

PHYLLIS R. LIBERTI,
Clerk, Board of Tax Appeals for the District of Columbia.

IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA

No. 8007.

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Petition for Revew of Decision of the Board of Tax Appeals for the District of Columbia

APPENDIX TO BRIEF FOR PETITIONER

1 Endorsed: Received and Filed Mar 17 1941 Board of Tax Appeals for the District of Columbia.

Board of Tax Appeals for the District of Columbia

Docket No. 456

ELIZABETH C. PACE, 1869 Wyoming Ave. N. W., Apt. 502, Washington, D. C., *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Petition

The above named petitioner petitions for a cancellation of an assessment of taxes against her and for a refund of taxes paid by her under protest, and alleges as follows:

1. The petitioner, Elizabeth C. Pace, is an individual, who is temporarily residing at 1869 Wyoming Avenue North-

west, Apartment No. 502, Washington, District of Columbia.

2. The tax in controversy is a tax on personal property jointly held, with right of survivorship, by the petitioner and her late brother, Charles F. Pace, deceased, who died in the District of Columbia on March 20, 1940, but who was at the date of his death a legal resident of and domiciled in the Town of Starke, Bradford County, State of Florida, in the amount of Six Hundred and Five Dollars and Fifteen Cents ($605.15), said tax representing an inheritance tax on a one-half interest in the total of said jointly held personal property, consisting of monies on deposit, as of the date of death of the said Charles F. Pace, deceased. The said tax was assessed upon a return duly filed by the petitioner for information purposes only, and was so clearly marked, as evidenced by a copy of said return attached hereto as Exhibit "A". The date of the filing of said return was extended to November 20, 1940, by the Office of the Assessor, in writing.

3. The notice of assessment was dated December 18, 1940, mailed to George H. Happ, attorney for the petitioner
2 the same day, and the tax paid by the petitioner under protest in writing on December 20, 1940, as will appear in the copy of assessment Exhibit "B", copy of check in payment of tax Exhibit "C", and copy of letter of payment under protest Exhibit "D", all of which are attached hereto.

4. The assessment of the tax set forth on the notice of assessment is based upon the following errors:

(a) The Assessor erred in assessing the tax, against the petitioner, on personal property which had no taxable situs in the District of Columbia.

(b) The Assessor erred in assessing the tax on personal property jointly held by the petitioner and the said Charles F. Pace, deceased, in that the latter was at the date of his death a legal resident domiciled in the Town of Starke, Bradford County, State of Florida, and only temporarily

residing in the District of Columbia while employed in the public service of the United States Government.

(c) The Assessor erred in assessing the tax, against the petitioner, on personal property of a decedent not domiciled in the District of Columbia at the date of his death, and which property had not acquired a business situs within the said District of Columbia.

(d) The Assessor erred in failing to give full credence to the Order duly and regularly passed by the District Court of the United States for the District of Columbia, under date of April 29, 1940, in Administration Proceedings No. 56,643, wherein the said Court decreed that the said Charles F. Pace, deceased, departed this life a resident of the Town of Starke, Bradford County, State of Florida, and ordered that the paper-writing purporting to be the last will and testament of said decedent be transmitted to the Clerk of the County Court for Bradford County, State of Florida. A copy of said Order of Court is attached hereto as Exhibit "E".

(e) The Assessor erred in disregarding evidence duly submitted to him by the petitioner in support of the petitioner's position in opposition to his ruling, and materially bearing on the questions set forth in the above subparagraphs (a), (b), (c) and (d) of this paragraph.

3 (f) The Assessor erred in imposing the said tax in his attempt to enforce a statutory provision which, so far as it purports to bear upon a person domiciled outside the District of Columbia, is unconstitutional.

5. The facts upon which the petitioner relies as the basis of this proceeding are as follows:

(a) The personal property upon which the within tax was assessed did not have a taxable situs in the District of Columbia on March 20, 1940, the date of the death of Charles F. Pace, deceased.

(b) The decedent, Charles F. Pace, deceased, was upon the date of his death, March 20, 1940, a legal resident and legally domiciled in the Town of Starke, Bradford County, State of Florida.

(c) The said Charles F. Pace, deceased, was at all times from the date of his majority to the date of his death qualified to exercise the right of franchise in Bradford County, State of Florida, and did avail himself of his right to vote in all the regular elections held in said County, paying all poll taxes as required by the laws in said State.

(d) The said Charles F. Pace, deceased, was at the said date of his death employed in the public service of the United States Government, serving as Financial Clerk of the United States Senate. In the year 1913 he journeyed from the State of Florida to the District of Columbia, to accept a position of uncertain and indefinite tenure in the Office of the Financial Clerk of the United States Senate, and continued to be employed by said Body until the above-mentioned date of his death, and maintained a temporary residence in the District of Columbia by virtue of his employment by the United States Government.

(e) The said Charles F. Pace, deceased, at all times while temporarily residing in the District of Columbia, expressed great interest in the community welfare of the Town of Starke, Florida, and maintained in said Town a warehouse wherein he stored certain of his personal property consisting of household furniture and furnishings, against the day when he would return to said Town. It was at all times said decedent's intention to return to said Town upon his retirement from service with the United States Government.

4 (f) The said Charles F. Pace, deceased, had large sums of money invested in Florida real estate, in the Counties of Bradford, Clay and Duval, both as owner and mortgagee, and regularly retained a firm of Florida attorneys in connection with his Florida property and financial transactions. He maintained a sizable bank account at all times in the State of Florida. He owned no real estate in the District of Columbia, always occupying rented apartments while employed by the United States Government in said District.

(g) The District Court of the United States for the District of Columbia, in regular proceedings had, Administra-

tion No. 56,643, passed an Order under date of April 29, 1940, transmitting the paper-writing purporting to be the last will and testament of the said Charles F. Pace, deceased, to the Clerk of the County Court for Bradford County, State of Florida, wherein it adjudged that the said decedent departed this life a resident of the Town of Starke, Bradford County, State of Florida. Administration was duly had upon said will in Bradford County, State of Florida, and ancillary administration thereon was obtained in the District of Columbia.

(h) The said Charles F. Pace, deceased, never relinquished his legal residence and legal domicile in the State of Florida.

(i) The personal property upon which the within tax was assessed did not acquire a business situs in the District of Columbia.

(j) The petitioner has paid the taxes above set forth, under protest.

Wherefore, the petitioner prays that this Board may hear the proceeding, and cancel the assessment levied against her under date of December 18, 1940, and that the Board pass an Order directing the refund to petitioner of the taxes so paid under protest.

ELIZABETH C. PACE,
Petitioner,
1869 Wyoming Ave. N. W.,
Apt. 502,
Washington, D. C.

5 GEO. H. HAPP
Oriental Building,
600 F Street N. W.,
Washington, D. C., and

HAZARD & THAMES,

By GEO. W. THAMES.
HAZARD & THOMAS,
Atlantic National Bank Building,
Jacksonville, Florida,
Attorneys for Petitioner.

DISTRICT OF COLUMBIA, *ss:*

Elizabeth C. Pace, being duly sworn, says that she is the petitioner above named; that she has read the foregoing annexed petition and is familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and those she believes to be true.

ELIZABETH C. PACE.

Subscribed and Sworn to before me this 17th day of March, 1941.

JAMES CONLON
Notary Public, D. C.

(Seal)

This Return made information purposes only. See hedule sheet attached

GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF THE ASSESSOR

INHERITANCE TAX RETURN

Name of decedent CHARLES P. PACE Date of death Mar. 20, 1940

Residence at time of death Town of Starke, Bradford County, State of Florida. Was decedent a U. S. citizen? Yes

	NAME	ADDRESS
Beneficiary making this return	Miss Elizabeth C. Pace. (Beneficiary herein is also sole beneficiary and executrix under will of decedent.	1869 Zoning Ave. N.W., Washington, D.C.
Personal Representative	Miss Elizabeth C. Pace (executrix)	1869 Zoning Ave. N.W., Washington, D.C.
Local Attorney	George E. Hamm.	Oriental Bldg., 600 F St. N.W., Wash. D.C.

Is a supplementary return to be filed by this beneficiary? ..... Is a separate return to be filed by the executor or administrator? .....

Relationship to the decedent of beneficiary (or beneficiaries) filing this return (state whether relationship is by blood or marriage) .....

sister of the whole blood

Did decedent leave a will? Yes Did decedent rent a safe deposit box? No If so, state location, and if held jointly with another person or persons give their names and addresses None

GENERAL INSTRUCTIONS

THIS RETURN IS TO BE FILED BY:

(1) Every person receiving property exceeding $1,000 in value from the decedent, where such property is not under the control of the personal representative (executor, administrator or collector). This includes, (a) all real estate located in the District of Columbia, WHETHER PASSING BY WILL, INHERITANCE OR BY RIGHT OF SURVIVORSHIP, (b) all jointly held bank accounts, jointly held building and loan accounts, and all other property standing in the joint names of a decedent and a survivor or survivors, and (c) all property received in contemplation of death, or transfers made or intended to take effect at death.

The beneficiary must report all items called for by Schedules A to E both inclusive. This return must be filed within six (6) months after death of decedent; provided that the beneficiary is given the option of reporting real estate, EXCEPT THAT PASSING BY RIGHT OF SURVIVORSHIP, in this return or in a supplementary return to be filed by the beneficiary within 15 months after death of decedent.

WHERE THE ESTATE IS NOT ADMINISTERED BY A PERSONAL REPRESENTATIVE, THE BENEFICIARY OR BENEFICIARIES MUST ALSO REPORT ALL OTHER PROPERTY OF THE ESTATE BY REPORTING ALL SCHEDULES.

(2) The executor, administrator or collector of every estate exceeding $1,000 in value. Such return must be filed within 15 months after death of decedent. The executor must furnish all information called for in schedules F to N, both inclusive, and schedule Q.

(3) The returns of the beneficiary and of the personal representative may be made on a single return if the return is executed by both persons and if filed within the time allowed the beneficiary by paragraph (1) above. Separate returns may be filed by the beneficiary and the personal representative if desired. Beneficiaries may file a joint return, providing the return shows clearly the value of the property each receives.

Real Estate vested by will in a trustee or trustees, shall be returned by the trustee or trustees and not by the person or persons beneficially interested therein.

The tax is payable within three (3) months after the last date for filing. Do not remit until bill is received from the Assessor.

PENALTY FOR LATE FILING IS TEN PER CENT OF THE TAX DUE and for late payment is 1% interest per month. The law also imposes additional penalties.

All VALUES in this return are the market values as of the date of death of the decedent.

Where the return includes life estates or estates for a term of years, the dates of birth of those beneficially interested in such estates must be reported in the proper detailed schedule.

The exemption to which the beneficiary is entitled may be deducted in the first return filed where the property received or to be received by such beneficiary is reported in more than one return.

The taxable portion of real or personal property held jointly or by the entireties shall be determined by dividing the value of the entire property by the number of persons in whose joint names it was held, except that jointly held bank accounts and other jointly held property put in joint names in contemplation of death by the decedent are taxable at their full value.

If the decedent died leaving a will which is admitted to probate, a copy of the same must be filed by the personal representative with his return; if not probated, the beneficiary must file a copy of the will with his return.

This return should be filed with the Office of the Assessor, Inheritance and Estate Tax Division, District Building, Washington, D. C.

In the preparation of this return the Regulations pertaining to Title V of the District of Columbia Revenue Act of 1937, as amended, should be consulted for guidance. The Regulations are adequately indexed and will be furnished by the Assessor free of charge upon request.

SUMMARY OF ATTACHED SCHEDULES

(Separate detailed schedules are to be attached to this return and marked with the schedule letters appearing in this summary. Where there is no property of the nature described in any of the schedules called for in this summary, insert the word "none" in the column reserved for the "taxable value" on this summary. If additional sheets are needed for detailed schedules, blank sheets of the same size may be used.

	TAXABLE VALUE
SCHEDULE A. REAL ESTATE (other than that to be reported under Schedule B).—List each and every parcel of real estate in the District of Columbia of which the decedent died seized or possessed, or in which he or she had any right, title or interest at the time of decedent's death, together with the market value thereof at the time of the death of the decedent. The real estate must be described by giving the lot and square number of each parcel, also the street address. Rents accrued and unpaid at the time of death of decedent must be included. Encumbrances are to be reported under Schedules O and P.	$
SCHEDULE B. REAL ESTATE HELD AS JOINT TENANTS OR AS TENANTS BY THE ENTIRETIES.—List all real estate located in the District of Columbia or any interest therein which the undersigned beneficiary and the decedent owned as joint tenants or as tenants by the entireties and which the undersigned beneficiary received or was entitled to receive from decedent by right of survivorship. Show on schedule how taxable portion of total value was determined. Describe each parcel as required under Schedule A. Also give date when property was placed in joint names. Encumbrances are to be reported under Schedules O and P.	$

GENERAL INSTRUCTIONS

THIS RETURN IS TO BE FILED BY:

(1) Every person receiving property exceeding $1,000 in value from the decedent, where such property is not under the control of the personal representative (executor, administrator or collector). This includes, (a) all real estate located in the District of Columbia, WHETHER PASSING BY WILL, INHERITANCE OR BY RIGHT OF SURVIVORSHIP, (b) all jointly held bank accounts, jointly held building and loan accounts, and all other property standing in the joint names of a decedent and a survivor or survivors, and (c) all property received in contemplation of death, or transfers made or intended to take effect at death.

The beneficiary must report all items called for by Schedules A to E both inclusive. This return must be filed within six (6) months after death of decedent; provided that the beneficiary is given the option of reporting real estate, EXCEPT THAT PASSING BY RIGHT OF SURVIVORSHIP, in this return or in a supplementary return to be filed by the beneficiary within 15 months after death of decedent.

WHERE THE ESTATE IS NOT ADMINISTERED BY A PERSONAL REPRESENTATIVE, THE BENEFICIARY OR BENEFICIARIES MUST ALSO REPORT ALL OTHER PROPERTY OF THE ESTATE BY REPORTING ALL SCHEDULES.

(2) The executor, administrator or collector of every estate exceeding $1,000 in value. Such return must be filed within 15 months after death of decedent. The executor must furnish all information called for in schedules F to N, both inclusive, and schedule Q.

(3) The return of the beneficiary and of the personal representative may be made on a single return if the return is executed by both persons and if filed within the time allowed the beneficiary by paragraph (1) above. Separate returns may be filed by the beneficiary and the personal representative if desired. Beneficiaries may file a joint return, providing the return shows clearly the value of the property each receives.

Real Estate vested by will in a trustee or trustees, shall be returned by the trustee or trustees and not by the person or persons beneficially interested therein.

The tax is payable within three (3) months after the last date for filing. Do not remit until bill is received from the Assessor.

PENALTY FOR LATE FILING IS TEN PER CENT OF THE TAX DUE, and for late payment is 1% interest per month. The law also imposes additional penalties.

ALL VALUES in this return are the market values as of the date of death of the decedent.

Where the return includes life estates or estates for a term of years, the dates of birth of those beneficially interested in such estates must be reported in the proper detailed schedule.

The exemption to which the beneficiary is entitled may be deducted in the first return filed where the property received or to be received by such beneficiary is reported in more than one return.

The taxable portion of real or personal property held jointly or by the entireties shall be determined by dividing the value of the entire property by the number of persons in whose joint names it was held, except that jointly held bank accounts and other jointly held property put in joint names in contemplation of death by the decedent are taxable at their full value.

If the decedent died leaving a will which is admitted to probate, a copy of the same must be filed by the personal representative with his return; if not probated, the beneficiary must file a copy of the will with his return.

This return should be filed with the Office of the Assessor, Inheritance and Estate Tax Division, District Building, Washington, D. C.

In the preparation of this return the Regulations pertaining to Title V of the District of Columbia Revenue Act of 1937, as amended, should be consulted for guidance. The Regulations are adequately indexed and will be furnished by the Assessor free of charge upon request.

SUMMARY OF ATTACHED SCHEDULES

(Separate detailed schedules are to be attached to this return and marked with the schedule letters appearing in this summary. Where there is no property of the nature described in any of the schedules called for in this summary, insert the word "none" in the column reserved for the "taxable value" on this summary. If additional sheets are needed for detailed schedules, blank sheets of the same size may be used.)

	TAXABLE VALUE
SCHEDULE A. REAL ESTATE (other than that to be reported under Schedule B).—List each and every parcel of real estate in the District of Columbia of which the decedent died, seized or possessed, or in which he or she had any right, title or interest at the time of decedent's death, together with the market value thereof at the time of the death of the decedent. The real estate must be described by giving the lot and square number of each parcel, also the street address. Rents accrued and unpaid at the time of death of decedent must be included. Encumbrances are to be reported under Schedules O and P.	$
SCHEDULE B. REAL ESTATE HELD AS JOINT TENANTS OR AS TENANTS BY THE ENTIRETIES.—List all real estate located in the District of Columbia or any interest therein which the undersigned beneficiary and the decedent owned as joint tenants or as tenants by the entireties and which the undersigned beneficiary received or was entitled to receive from decedent by right of survivorship. Show on schedule how taxable portion of total value was determined. Describe each parcel as required under Schedule A. Also give date when property was placed in joint names. Encumbrances are to be reported under Schedules O and P.	$
SCHEDULE C. TANGIBLE PERSONAL PROPERTY HELD AS JOINT TENANTS OR AS TENANTS BY THE ENTIRETIES.—List all tangible personal property located in the District of Columbia, or any interest therein which the undersigned beneficiary received or was entitled to receive from decedent by right of survivorship. For general description of items to be included in this Schedule and detailed information required see Schedule F. Also give date when property was placed in joint names.	$
SCHEDULE D. INTANGIBLE PERSONAL PROPERTY HELD AS JOINT TENANTS OR AS TENANTS BY THE ENTIRETIES.—List all intangible personal property or any interest therein which the undersigned beneficiary received or was entitled to receive from decedent by right of survivorship. For general description of items to be included in this Schedule and detailed information required see Schedules G, H and J. Also give date when property was placed in joint names.	$ 44,343 64
SCHEDULE E. PROPERTY TRANSFERRED BY THE DECEDENT DURING HIS LIFETIME.—List all property which the undersigned beneficiary received from the decedent during his lifetime by deed, grant, bargain, gift or sale, for which full consideration in money or money's worth was not given in any of the manners following: (a) made to take effect after death; (b) where the decedent retained during his life the use or enjoyment, or the income or the right to designate the person who would enjoy the use, possession or income of such property, or (c) MADE IN CONTEMPLATION OF DEATH. Note.—All property transferred by decedent to beneficiary without full consideration within two years prior to decedent's death must be listed, whether the undersigned considers it transferred in contemplation of death or not. CONSULT REGULATIONS FOR MORE DETAILED DESCRIPTION OF TRANSFERS TO BE LISTED IN THIS SCHEDULE.	$
SCHEDULE F. TANGIBLE PERSONAL PROPERTY.—List all undeposited money, wearing apparel, jewelry, silverware, pictures, books, works of art, household furniture, horses, carriages, automobiles, boats, and any and all other personal chattels of whatever kind or nature physically situated in the District of Columbia, or, if readily moveable temporarily without the District of Columbia at the time of the death of the decedent, and in which the decedent, at the time of his death had any right, title or interest.	$
SCHEDULE G. STOCKS AND BONDS.—Stocks should indicate number of shares, whether common or preferred, issue, par value, price per share, and exact name of corporation. Bonds should include quantity and denomination, name of obligor, kind of bond, date of maturity, interest rate, and interest payment dates. State the exchange upon which listed, or if unlisted, the principal business office of the company. Listed stocks and bonds should be valued at the mean between the highest and lowest selling prices on the date of death, or if there were no sales on such date, then at the mean between the highest and lowest sales on the nearest date thereto, if within a reasonable period. If the date of death is on a Sunday or holiday, the quotations of the nearest previous day should be used. If listed on several exchanges, quotations of the principal exchange should be employed. Unlisted securities which are dealt in actively by brokers or have an active market should be valued at the	

EXHIBIT A

sale price as of the date of death or the nearest date thereto, if within a reasonable period either before or after such date. Only sales in a normal course of business should be employed. If sale prices are not available and the stock is quoted on a bid and asked basis, the mean of the bid and asked prices on the date of death, or the nearest date thereto, where not quoted as of such date, should be taken.

Inactive stock and stock in close corporations should be valued on the basis of the company's net worth, earning and dividend paying capacity, and all relevant factors bearing on the value of the stock. Complete financial and other data upon which the valuation is based should be submitted with the return, including balance sheet as near to date of death as possible, and a statement of the net earnings or operating results and dividends paid for each of the five years immediately preceding such date.

Securities returned as of no value, nominal value or obsolete, should be listed last, and the address of the company and the State and date of the incorporation should be stated. Correspondence or statements used as the basis for return at no value should be submitted with the schedule.

Interest accrued and dividends declared but unpaid (where stock is valued ex-dividend) to the date of death must be shown separately on this Schedule.

SCHEDULE H. MORTGAGES, NOTES AND CASH ON DEPOSIT OWNED BY DECEDENT.—State (1) face value and unpaid balance, (2) date of mortgage or note, (3) date of maturity, (4) name of maker, (5) property mortgaged or collateral securing note, and (6) interest payment dates and rate of interest. Interest accrued to date of death must be shown separately on this Schedule. State name and address of bank or other depository and balance (including accrued interest) as of date of death. $

SCHEDULE I. INSURANCE (payable to the estate either directly or indirectly).—List names of insurance companies and the amount of each policy. Policies payable to a specifically named beneficiary are not taxable. $

SCHEDULE J. OTHER INTANGIBLE PROPERTY.—List all other intangible property not set forth elsewhere in this return. $

SCHEDULE K. POWERS OF APPOINTMENT.—Only property passing through the exercise or non-exercise by the decedent of a general power should be included. Ordinarily a general power is one to appoint to any person or persons in the discretion of the donee (or appointor) of the power. If the donee is required to appoint to a specified person or class of persons, the property should not be included in his gross estate. Copy of the instrument granting the power and of the instrument by which the power was exercised, must be filed with the return. Copy must be filed even though it is contended that the power was a limited one and the property passing thereunder is not returned for tax. CONSULT REGULATIONS IN PREPARING THIS SCHEDULE. $

SCHEDULE L. INTEREST IN COPARTNERSHIP OR UNINCORPORATED BUSINESS.—Where an interest in a copartnership or unincorporated business is returned, submit a statement of assets and liabilities as near to the date of death as possible. Good will must be accounted for. A statement of the net earnings for the preceding five years must also be furnished. $

SCHEDULE M. DECEDENT'S INTEREST AS HEIR OR BENEFICIARY OF THE ESTATE OF ANY DECEASED PERSON IN PROCESS OF ADMINISTRATION OR UNDISTRIBUTED.—Set forth the interest of the decedent in the estate of any deceased person, giving the name of such deceased person, date of death of such deceased person, market value of such interest, and any and all facts pertaining thereto which may be pertinent to a fair appraisal of such interest. $

SCHEDULE N. DOWER INTEREST IN REAL ESTATE NOT OWNED BY THE DECEDENT AT THE TIME OF HIS DEATH, BUT OWNED BY HIM DURING MARRIAGE AND IN WHICH HIS WIDOW IS ENTITLED TO DOWER.—List the real estate once owned by decedent during marriage, in which his widow did not relinquish dower, and which real estate the decedent conveyed before death, subject to dower of his widow. $

TOTAL ASSETS $ 44,343.64

DEDUCTIONS

SCHEDULE O. MORTGAGES, DEEDS OF TRUST AND OTHER LIENS AGAINST ABOVE REAL ESTATE AND OTHER PROPERTY INCLUDED IN FOREGOING SCHEDULES OF ASSETS.—Give the name and address of the mortgagee, payee or obligee and the date and term of the mortgage, note, or other agreement under which the indebtedness is claimed. Show the amount of the UNPAID BALANCE as of the date of death of the decedent, unpaid interest accrued to date of death, the rate of interest and date to which the interest was paid prior to the decedent's death. Describe the property on which such obligation is secured, together with a reference to the schedule letter on this return where such property is reported.

In the case of mortgages or deeds of trust, give the liber and folio of record thereof. $

SCHEDULE P. FUNERAL AND ADMINISTRATION EXPENSES AND OTHER DEBTS.—List all valid debts owed by the decedent at the time of his death (other than those secured by mortgages or other liens shown in schedule O), including funeral expenses and administration expenses. All claims should be itemized, giving names and addresses of persons to whom payable, and exact nature of the particular expense. An item may be entered for deduction though the exact amount is not known at the time, provided it is ascertainable with reasonable certainty, and will be paid. No deduction may be taken upon the basis of a vague or uncertain estimate. Preserve all vouchers and receipts for inspection.

Estate Taxes may be deducted from the value of the gross estate in reporting values for this return.

Real Estate taxes are deductible from the gross estate only to the extent of the portion of such taxes accrued to the date of death of the decedent.

Attorney's fees incident to litigation instituted by the beneficiaries as to their respective interests do not constitute a proper deduction, inasmuch as expenses of this character are properly charged against the beneficiaries personally and are not administration expenses as contemplated by the statute.

Claims for expenses or debts may not be deducted from the decedent's interest in property as joint tenant or as tenant by the entirety, except real estate taxes thereon accrued to date of death of decedent. $

TOTAL DEDUCTIONS $

SCHEDULE Q. SUMMARY OF DISTRIBUTION.—Show the name and address of each person entitled to share in the estate, his relationship (state whether by blood or by marriage) to the decedent, and the value of the share each is to receive. Deduct from each share the exemption authorized by law and show the tax assessable against the share of each beneficiary. If this is the sole return of one beneficiary entitled to receive property not under the control of a personal representative, this schedule need not be furnished. [redacted]

A COPY OF THE WILL AND ANY CODICILS THERETO (CERTIFIED AS BEING A TRUE COPY BY THE PERSON FILING THE RETURN) MUST ACCOMPANY THIS RETURN.

SCHEDULE M DECEDENT'S INTEREST AS HEIR OR BENEFICIARY OF THE ESTATE OF ANY DECEASED PERSON IN PROCESS OF ADMINISTRATION OR UNDISTRIBUTED.—Set forth the interest of the decedent in the estate of any deceased person, giving the name of such deceased person, date of death of such deceased person, market value of such interest, and any and all facts pertaining thereto which may be pertinent to a fair appraisal of such interest. $

SCHEDULE N DOWER INTEREST IN REAL ESTATE NOT OWNED BY THE DECEDENT AT THE TIME OF HIS DEATH, BUT OWNED BY HIM DURING MARRIAGE AND IN WHICH HIS WIDOW IS ENTITLED TO DOWER.—List the real estate once owned by decedent during marriage, in which his widow did not relinquish dower, and which real estate the decedent conveyed before death, subject to dower of his widow. $

TOTAL ASSETS $ 44,248 66

DEDUCTIONS

SCHEDULE O. MORTGAGES, DEEDS OF TRUST AND OTHER LIENS AGAINST ABOVE REAL ESTATE AND OTHER PROPERTY INCLUDED IN FOREGOING SCHEDULES OF ASSETS.—Give the name and address of the mortgagee, payee or obligee and the date and term of the mortgage, note, or other agreement under which the indebtedness is claimed. Show the amount of the UNPAID BALANCE as of the date of death of the decedent, unpaid interest accrued to date of death, the rate of interest and date to which the interest was paid prior to the decedent's death. Describe the property on which such obligation is secured, together with a reference to the schedule letter on this return where such property is reported.

In the case of mortgages or deeds of trust, give the liber and folio of record thereof. $

SCHEDULE P FUNERAL AND ADMINISTRATION EXPENSES AND OTHER DEBTS.—List all valid debts owed by the decedent at the time of his death (other than those secured by mortgages or other liens shown in schedule O), including funeral expenses and administration expenses. All claims should be itemized, giving names and addresses of persons to whom payable, and exact nature of the particular expense. An item may be entered for deduction though the exact amount is not known at the time, provided it is ascertainable with reasonable certainty, and will be paid. No deduction may be taken upon the basis of a vague or uncertain estimate. Preserve all vouchers and receipts for inspection.

Estate Taxes may be deducted from the value of the gross estate in reporting values for this return.

Real Estate taxes are deductible from the gross estate only to the extent of the portion of such taxes accrued to the date of death of the decedent.

Attorney's fees incident to litigation instituted by the beneficiaries as to their respective interests do not constitute a proper deduction, inasmuch as expenses of this character are properly charged against the beneficiaries personally and are not administration expenses as contemplated by the statute.

Claims for expenses or debts may not be deducted from the decedent's interest in property as joint tenant or as tenant by the entirety, except real estate taxes thereon accrued to date of death of decedent. $

TOTAL DEDUCTIONS $

SCHEDULE Q SUMMARY OF DISTRIBUTION.—Show the name and address of each person entitled to share in the estate, his relationship (state whether by blood or by marriage) to the decedent, and the value of the share each is to receive. Deduct from each share the exemption authorized by law and show the tax assessable against the share of each beneficiary. If this is the sole return of one beneficiary entitled to receive property not under the control of a personal representative, this schedule need not be furnished. [redacted]

A COPY OF THE WILL AND ANY CODICILS THERETO (CERTIFIED AS BEING A TRUE COPY BY THE PERSON FILING THE RETURN) MUST ACCOMPANY THIS RETURN.

AFFIDAVIT OF BENEFICIARIES

That I (we), ... being first duly sworn, on oath depose and say that I am (are) the person(s) who received or are entitled to receive the property listed in schedules [redacted] reported in this return, which schedules include all property of the decedent which I (we) have received or are entitled to receive of property passing from this decedent, NOT UNDER THE CONTROL OF THE PERSONAL REPRESENTATIVE, and that the values at which the property is herein reported are the true market values of such property as of the date of death of said decedent.

ELIZABETH C. PACE

Elizabeth C. Pace

SIGNATURE OF AFFIANT

Subscribed and sworn to before me this 20 day of November, 19 40.

JAMES CONLON (SEAL)

NOTARY PUBLIC, D. C.

AFFIDAVIT OF PERSONAL REPRESENTATIVE

That I (we), ... being first duly sworn, on oath depose and say that I am (we are) the ..... of the Estate of the above decedent. That I (we) have examined this return and the schedules attached hereto, and that to the best of my (our) knowledge and belief all property of every kind, nature and description constituting the decedent's estate left by the decedent at the time of his death has been included therein, and that I (we) have been unable to discover any property belonging to the estate other than that so set forth, and that no information of any other property of the decedent's estate has come to my (our) knowledge, and that all of such property has been reported at its true market value as of the date of death of the decedent, and that to the best of my (our) knowledge and belief the schedules reported by the beneficiary or beneficiaries making this joint return contain a full and true statement of all the property which said beneficiary or beneficiaries received not under the control of the personal representative and that it is valued at its true market value at the time of the death of the decedent.

SIGNATURE OF AFFIANT

Subscribed and sworn to before me this ..... day of ..... 19.....

NOTARY PUBLIC, D. C.

7 Joint Accounts:

Perpetual Building Association, Washington, D. C., Account Series 58 415. Charles F. Pace and Elizabeth C. Pace, joint owners with right of survivorship. Account opened May 20, 1932. Balance as of March 20, 1940	$22,720.33
American Security and Trust Company, Washington, D. C., Savings Account No. 27392. Miss Elizabeth C. Pace or Charles F. Pace or survivor. Account opened January 21, 1938. Balance as of March 20, 1940	20,377.52
American Security and Trust Company, Washington, D. C., Checking Account (no number). Miss Elizabth C. Pace or Charles F. Pace or survivor. Account opened January 21, 1938. Balance as of March 20, 1940	1,245.79
TOTAL of entire balances of above accounts as of March 20, 1940, date of decedent's death	$44,343.64

This return is submitted for information purposes only, as Charles F. Pace, at the time of his death, was a legal resident of and domiciled in the Town of Starke, Bradford County, State of Florida, original administration being had in said County and State.

This return does not cover any assets of said decedent's Estate.

Evidence bearing on decedent's domicile at time of death will be furnished in accordance with conversations had between Mr. J. R. Merrick, Chief, Inheritance Tax Division, District of Columbia, and George H. Happ, attorney at law, representing Miss Elizabeth C. Pace.

Name of Decedent Charles F. Pace Schedule "D"

23

OFFICE OF THE ASSESSOR, DISTRICT OF COLUMBIA

INHERITANCE TAX

Washington, D. C., December 18, 1940

Estate of CHARLES F. PACE — Estate No. 6167

Tax upon share of Elizabeth C. Pace in jointly held property only — Inheritance Tax $ 605.15

Penalty $

Interest to $

Total $ 605.15

Elizabeth C. Pace
1869 Wyoming Avenue, N.W.
Washington, D.C.

PAID UNDER PROTEST

CR: 9009 Inheritance Tax

This bill payable on or before December 20, 1940

R

PAY TO THE COLLECTOR OF TAXES, D. C.

P-474-C

(When making payment return both copies to Collector)

DEC 20 1940 3 25 —CH—K 60515

PAID— Collector of Taxes, D.C.

PAID UNDER PROTEST

(M)

WASHINGTON, D.C. December 16, 1940 No.

AMERICAN SECURITY & TRUST COMPANY

FIFTEENTH STREET & PENNA. AVE. N.W.

PAY THIS CHECK IS APPLIED TO THE PAYMENT OF D.C. $ 605 15/100

TO THE ORDER OF Collector of Taxes

UNITED STATES AND DISTRICT OF COLUMBIA

SECRETARY W. A. JULIAN

605 DOLLARS 15 CENTS DOLLARS

This Tax Payment is made under PROTEST.

Estate 6167

Elizabeth C. Pace

9 *Exhibit "D"*

Law Offices

George H. Happ

Oriental Building—600 F Street N. W.

Washington, D. C.

National 0603

December 20, 1940

Collector of Taxes for the District
of Columbia,
District Building,
Washington, D. C.

Reference: Letter of J. R. Merrick, Administrator, Inheritance and Estate Taxes, dated December 18, 1940.

Sir:

Under date of December 18, 1940, a bill for inheritance tax was mailed the undersigned as attorney for Elizabeth C. Pace, levying the sum of $605.15 to be paid upon that personal property held jointly by the said Elizabeth C. Pace and Charles F. Pace, deceased, at the date of the latter's death, namely, March 20, 1940. A return, for information purposes only, setting forth the herein mentioned joint property was duly filed by Miss Pace prior to the above assessment.

Accordingly, there is forwarded herewith the check of Elizabeth C. Pace drawn upon the American Security and Trust Company, of Washington, D. C., under date of December 19, 1940, payable to the Collector of Taxes, D. C., in the sum of $605.15, to cover the amount set forth in the above tax bill.

This payment is made UNDER PROTEST, on behalf of Elizabeth C. Pace, upon the ground that Charles F. Pace,

deceased, was at the date of his death, March 20, 1940, domiciled in and a legal resident of the State of Florida, and was not then a legal resident of and domiciled in the District of Columbia, which fact has been heretofore adjudged by the Court in regular proceedings had in the District Court of the United States for the District of Columbia, in accordance with the Code of Laws for the District of Columbia, in administration proceedings No. 56,643.

Respectfully,

GEORGE H. HAPP
Attorney for Elizabeth C. Pace, individually, and for Elizabeth C. Pace, as Executrix of the Estate of Charles F. Pace, deceased

GHH/S
Enc.(2)

10 *Exhibit "E"*

District Court of the United States for the District of Columbia

Holding Probate Court

No. 56,643

In Re: The Will of Charles F. Pace, deceased.

Order to Transmit Will to Domicile

Upon consideration of the petition of Elizabeth C. Pace, filed herein the 27th day of April, 1940, and it appearing to the satisfaction of the Court that the above named decedent Charles F. Pace, deceased, departed this life a resident of the Town of Starke, Bradford County, State of Florida, it is by the Court this 29th day of April, 1940,

Ordered, that the Register of Wills be and he is hereby authorized and directed to transmit by registered mail to the Clerk of the County Court for Bradford County, State

of Florida, at Starke, Florida, the paper-writing dated the 12th day of July, 1937, filed herein, and purporting to be the last will and testament of Charles F. Pace, deceased, and it is further

Ordered, that the Register of Wills retain a certified copy of said testamentary paper for the files of his office.

ALFRED A. WHEAT.
Chief Justice.

11 Endorsed: Received and Filed Jun 26 1941 Board of Tax Appeals for the District of Columbia

Opinion No. 284

Board of Tax Appeals for the District of Columbia

Docket No. 456

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Findings of Fact and Opinion

The Assessor of the District of Columbia assessed the petitioner and the petitioner paid to the District the sum of $605.15, as an inheritance tax in relation to the estate of Charles F. Pace, deceased. The petitioner seeks refund of such sum. It is alleged by the petitioner that such tax was assessed in error in that the property transferred was intangible, and the decedent was not domiciled in the District of Columbia at the time of his death.

Findings of Fact

The petitioner is now, and since the year 1910 has been a resident of the District of Columbia. She is the sister of Charles F. Pace, deceased, who died a resident of the District of Columbia on March 20, 1940, at the age of 63 years.

At the time of his death the decedent and the petitioner were the joint owners or holders of accounts in a building

association and a trust company, both of the District of Columbia, in the aggregate amount of $44,343.64.

Within the time prescribed by law the petitioner filed an inheritance tax return with the Assessor showing the existence and ownership of the aforesaid joint accounts, but stating that such "return is submitted for information only, as Charles F. Pace, at the time of his death, was a legal resident and domiciled in the Town of Starke, Bradford County, State of Florida, original administration being had in said County and State". Thereafter, to wit, on December 18, 1940 the Assessor assessed the petitioner an inheritance tax in the sum of $605.15, computed on one-half of the amount of the said joint accounts. On December 20, 1940, the petitioner paid such tax under protest in writing. This proceeding was filed March 17, 1941.

12

The petitioner and her brothers and sisters were born in Florida, wherein her family had lived for several generations. In 1910 the petitioner came to Washington to study music. She was accompanied by a sister. They took up their residence in a rooming house. At that time the decedent was employed in a bank in Florida. In 1913 he was, through the patronage of Senator Duncan U. Fletcher of Florida, appointed a clerk in the Congressional Library. Shortly thereafter he was appointed Financial Clerk of the Senate which position he held continuously until his death.

At the time of his appointment to the Federal position in 1913 the decedent sold the family homestead in Starke, Florida, and stored a quantity of furniture and household effects in a building which he then owned. He has since that date had no home or other place of residence in Florida. Upon his arrival in the District of Columbia he joined his two sisters and lived with them for about one year in a boarding house or houses. About 1914 the three of them leased an apartment in Washington and furnished it. The three of them lived together in that or other apartments in the District of Columbia until the death of one sister. After

that time the petitioner and the decedent lived together in an apartment until his death. Neither the decedent nor his sisters owned any dwelling house or any other real property in the District of Columbia.

In 1913 the decedent owned several pieces of property in Florida. From time to time thereafter he acquired several more parcels there and sold some parcels thereof. At the time of his death he owned a number of parcels of real estate in Florida of the value of approximately $30,000, and notes secured on Florida real estate of the value of several thousand dollars. Such real estate and mortgage notes were handled by his attorneys and agents in Florida. At the time of his death the decedent owned intangible assets of value in excess of $250,000, consisting of stocks and bonds, which were kept in the District of Columbia,
13 and which were handled by his bankers in the District. At that time he had substantial sums on deposit in banks in Florida and in a bank in the District of Columbia.

The decedent claimed a legal residence in Florida. On several occasions while he resided in the District of Columbia he stated, orally and in writing, that he was a "resident" of Florida; and on other occasions stated orally that he intended to return to and live in Florida when he should have resigned from his Federal employment. He paid the poll tax of Florida and voted regularly, or, at least, frequently in Florida elections. In some instances he voted by "absentee" ballot. Such ballot was accompanied by a sworn statement or affidavit that he was a "resident" of the particular voting area. The pertinent law of Florida requires in terms that a voter must "be a citizen of the United States, and shall have resided or had his or her habitation, domicile, home and place of permanent abode in Florida for one year, and in the county six months."

Shortly after the death of the decedent his will was deposited with the Register of Wills of the District of Columbia. Thereafter the petitioner herein filed a petition in

the District Court of the United States for the District of Columbia, holding a Probate Court, for the withdrawal of such will from the Probate Court and its transmittal to the County Court of Bradford County, Florida. After considering such petition and ex parte affidavits in support thereof the Probate Court granted the prayers of such petition. Thereafter the Probate Court granted ancillary letters testamentary to the petitioner as executrix of the estate of the decedent. The District of Columbia was not a party to and had no notice of either of such proceedings.

The decedent's will, dated July 12, 1937, began with statement following, "I, Charles F. Pace, of the City of Washington, District of Columbia * * *" .

Prior to the effective date of the repeal of the law authorizing the imposition of intangible personal property taxes by the District of Columbia (July 1, 1939) the decedent paid the District of Columbia intangible personal property taxes and gave his addresses as follows:

14

For the year ending	Value of Intangibles	Tax	Address
June 30, 1937	$19,708	98.54	1539 Eye St. N. W.
June 30, 1938	43,508	217.54	1539 Eye St. N. W.
June 30, 1939	36,452	182.26	1851 Columbia Road

The decedent paid to the District of Columbia an income tax for the calendar year 1939 in the sum of $150.73, and gave his address as 1851 Columbia Road, Washington, D. C. No claim for refund or protest was made in respect of such intangible or inheritance taxes on the basis of domicile.

Miss Mary S. Pace, who was a sister of the decedent and the petitioner, and who resided with them during their entire residence in the District of Columbia, died on January 15, 1938. At the time of her death she held certain intangible assets jointly with her sister, the petitioner herein.

Without objection a return was filed by the petitioner in accordance with the inheritance law, and based therein the Assessor assessed the petitioner, as survivor of her sister, an inheritance tax in the amount of $200.79. Such tax was paid voluntarily and without protest on February 15, 1938. All correspondence with the office of the Assessor regarding the tax was carried on by the decedent as the "agent" for the petitioner.

The petitioner in her individual capacity filed with the Assessor an income tax return for the calendar year 1939, and paid to the District of Columbia without any protest an income tax for that year in the sum of $22.50. For the fiscal year ending June 30, 1939, the petitioner in her individual capacity filed a return of intangible personal property and paid thereon a tax of $26.08, without protest. In both returns the address of the petitioner was given as 1851 Columbia Road, Washington, D. C.

The decedent was a man of substantial financial means. His property, consisting mostly of liquid assets, was of value in excess of $300,000. His livelihood was not dependent upon his position as Financial Clerk of the Senate. Some time prior to his death he was offered employment in a bank in Florida, in which he was employed when he resided there, at a salary substantially in excess of his salary as Financial Clerk of the Senate.

After considering all of the evidence the Board finds as a fact that when the decedent, Charles F. Pace, came to reside in the District of Columbia upon accepting Federal employment in 1913 he had an intention to remain and reside in the District for an indefinite period of time, and that if he had an intention to return to his former home in Florida, such intention was floating and dependent upon his resigning his Federal employment before his death.

Opinion

The decision in this case turns on the fact of domicile of the decedent, Charles F. Pace. Since the tax here under

consideration is an inheritance and the property transferred is intangible, before the tax can be held to be valid it must appear that the decedent was domiciled in the District of Columbia at the time of his death.

The contention of he petitioner is two-fold, namely, (a) that under the recent decisions of the United States Court of Appeals concerning domicile of Federal employees the Board must hold that the decedent was not domiciled in the District of Columbia, but in Florida, and (b) that the action of the District Court of the United States for the District of Columbia, holding a Probate Court, in ordering the transmittal of the will of the decedent to Florida and in granting ancillary letters testamentary amounted to a judgment in rem or quasi in rem, binding on all parties, including the District of Columbia, not withstanding the District was not a party to the administration proceeding in which such action was taken.

The facts as found herein show that the decedent, when he came to the District of Columbia in 1913 was a free agent, that is to say, he was under no compulsion, as that term must be understood in the law of domicile. It is, of course, conceded that he was physically present in the District of Columbia. The Board has found as a fact that he had an intention to remain and make his home in the District of Columbia for an indefinite period of time, and that whatever intention he had of returning to his former home was floating, and dependent on an event which might not, and, in fact, did not occur.

If the decedent had been employed in private industry or profession and had not been a Federal employee, the Board would not hesitate to rule that he was domiciled in the District of Columbia at the time of his death.

16 Leighton v. District of Columbia, D. C. B. T. A. Docket No. 375, Beedy v. District of Columbia, D. C. B. T. A. Docket No. 353; Beaty v. District of Columbia, D. C. B. T. A. Docket No. 457. The decedent, however, was a Federal employee and claimed a legal residence in Flor-

ida and voted regularly therein. Such being the case the Board, under the decisions of the United States Court of Appeals in Sweeney v. District of Columbia, 72 App. D. C. 30, 113 F(2d) 25; District of Columbia v. Murphy, — App. D. C. —, 119 F(2d) 451 and District of Columbia v. DeHart, — App. D. C. —, 119 F(2d) 449, concludes as a matter of law that at the time of his death the decedent was not domiciled in the District of Columbia.

Because of the ruling on the first point of the petitioner it is not necessary to consider the second, and the Board expresses no opinion thereon.

It, therefore, follows that the Board must hold that the inheritance tax assessed against the petitioner in the sum of $605.15, and here under consideration was erroneously collected by the District from the petitioner, and that the petitioner is entitled to a refund thereof.

Decision will be entered for the petitioner.

JO. V. MORGAN
Member Sole

17 Endorsed: Received and Filed June 26 1941
Board of Tax Appeals for the District of Columbia

DOCKET NO. 456

ELIZABETH C. PACE, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Decision

This proceeding came on to be heard upon the petition filed herein, and upon consideration thereof and of the evidence adduced at the hearing on said petition, it is by the Board this 26th day of June, 1941,

Adjudged and Determined That an inheritance tax in the sum of $605.15 was erroneously collected by the District

of Columbia from the petitioner and that the petitioner is entitled to a refund of said total sum.

JO. V. MORGAN
Member Sole

June 26, 1941

18 Endorsed: Received and Filed Jul 8 1941 Board of Tax Appeals for the District of Columbia

Opinion No. 284a

Board of Tax Appeals for the District of Columbia

Docket No. 456

Elizabeth C. Pace, *Petitioner*,

v.

District of Columbia, *Respondent*.

Revision of Findings of Fact

After the Findings of Fact in this proceeding were entered the respondent duly filed a motion to revise the findings of fact in certain respects. After consideration of such motion the Board amends and revises the Findings of Fact herein by the addition of the following:

1. The inheritance tax assessed against Elizabeth C. Pace, the petitioner herein, in relation to the estate of her sister, Mary S. Pace, in the sum of $200.79, was paid voluntarily and without protest on February 15, 1938, by the decedent, Charles F. Pace.

2. The decedent, Charles F. Pace, was the last of four brothers and sisters to remove to the District of Columbia. All of such brothers and sisters resided in the District of Columbia continuously since 1913. One of the brothers was a Catholic Priest who had studied in Rome and who lived during the period mentioned at the Catholic University where he was Vice-Rector. One brother and one sister died in 1938 and their remains, together with those of the decedent, are buried in a vault at Mount Olivet Cemetery

in the District of Columbia, for which the petitioner pays a monthly rental. The vault is the property of the cemetery. The petitioner on the witness stand stated that she intended to remove the bodies of her deceased brothers and sister some time in the future to a family burial lot in Florida.

19 3. The decedent, Charles F. Pace, regularly filed his Federal income tax return with the Collector of Internal Revenue at Baltimore. Before filing his return of income with the Assessor of the District of Columbia for District income tax purposes he discussed the matter with William E. Schooley, Assistant Vice-President of the American Security and Trust Company, Washington, D. C., who stated to the decedent that he was liable to the District of Columbia for an income tax since he had received his income in the District of Columbia. The decedent was a member of the Bar of the State of Florida.

s/ JO. V. MORGAN

July 8, 1941

20 Endorsed: Received and Filed Jul 10 1941 Board of Tax Appeals for the District of Columbia

Board of Tax Appeals for the District of Columbia

Docket No. 456

ELIZABETH C. PACE, 1869 Wyoming Ave. N. W., Apt. 502, Washington, D. C. *Petitioner*.

v.

DISTRICT OF COLUMBIA, *Respondent*.

Stipulation

1. The petitioner, Elizabeth C. Pace, and the respondent, the District of Columbia, by their respective attorneys of record, hereby stipulate that the certified photostatic copies of the original affidavits of the following persons, each of

whom is at a greater distance than 100 miles from the place of the hearing of this cause, namely,

Harold C. Wall,
D. D. Upchurch,
W. R. McQuaid,
N. D. Wainwright,
E. K. Perryman,
C. A. Knight,
Vida V. Morgan,
E. L. Matthews, and
Joseph E. Wilson,

with copies of the exhibits thereto, the originals of which accompanied Petition for transmittal of Will to domicile filed in the matter of In Re: The Estate of Charles F. Pace, deceased, Administration Proceedings No. 56,643, of the District Court of the United States for the District of Columbia, holding Probate Court, be taken and filed in the herein cause, and that the same may be read and received in evidence in this cause in the same manner as if they were the depositions of said parties regularly taken and filed under the rules applicable to the Board of Tax Appeals for the District of Columbia.

It is further stipulated that all such words appearing in said affidavits as may be obliterated or lined out thereon, are not to be read and received in evidence.

21 It is likewise stipulated that the certified photostatic copy of the original Order of Court of April 29, 1940, authorizing and directing transmittal of Will to Clerk of the County Court of Bradford County, State of Florida, at Starke, Florida, which is attached to said affidavits, be read and received in evidence in this cause.

Said affidavits and Order of Court are attached hereto, under one certificate, and are marked for identification as "Stipulation Exhibit A".

2. It is further stipulated that the following:

(a) Photostatic copy of carbon copy of letter from William R. McQuaid to Mr. Chas. F. Pace, dated November 27, 1939,

(b) Photostatic copy of original letter from Charles F. Pace to Mr. William R. McQuaid, dated Nov. 29, 1939,

(c) Original letter of William R. McQuaid to Mr. Chas. F. Pace, dated December 2, 1939, and

(d) Photostatic copy of carbon copy of letter from William R. McQuaid to Mr. Chas. F. Pace, dated December 7, 1939,

be read and received in evidence in this cause so far as they are relevant in connection with the copy of the letter from Charles F. Pace to William R. McQuaid, dated December 5, 1939, which is attached as an exhibit to the above mentioned affidavit of the said William R. McQuaid. The primary purpose of the introduction of the letters mentioned in this paragraph is to present to the Board a full and complete understanding of all facts incident to the statements contained in the said letter from Pace to McQuaid, dated December 5, 1939, and they are attached hereto, being collectively marked for identification as "Stipulation Exhibit B".

3. It is further stipulated that the following:

(a) Certified photostatic copy of the exemplified copy of the original Will of Charles F. Pace, deceased,

(b) Certified copy of the Petition of Elizabeth C. Pace for Ancillary Letters Testamentary, in the District of Columbia, under said Will, and certified photostatic copy of the original Order of Court of June 17, 1940, granting Ancillary Letters Testamentary unto Elizabeth C. Pace, both of which are included under one certificate, and

(c) Certified photostatic copy of the original Report of Appraisers filed in the matter of In Re: Estate of Charles F. Pace, deceased, in the Office of the County Judge of the County of Bradford, State of Florida, on August 14, 1940, and being recorded in Book #2 on page 51 of Public Records of said County,

be read and received in evidence in this cause, in the same manner as if regularly offered and duly received in evidence in the hearing of the same.

Said copies of Will, Petition and Order of Court, and Report of Appraisers are attached hereto, and are marked for identification as "Stipulation Exhibits C, D and E" respectively.

4. It is further stipulated that the affidavit of Elmer E. Hazard, a member of the Bar of the State of Florida, attached hereto, and marked for identification "Stipulation Exhibit F" setting forth certain provisions of the Constitution and Statutes of the State of Florida in reference to poll or capitation tax, be read and received in evidence in this cause, in proof of said provisions of said Constitution and Statutes of the State of Florida, in such manner as if said substance contained in said affidavit was regularly offered and duly proven at the hearing of this cause.

5. It is further stipulated that list of jointly held property, appearing in Exhibit A of the Petition herein, is a true and accurate record of all property held jointly by Charles F. Pace, deceased, and Elizabeth C. Pace, petitioner herein, in the District of Columbia, on March 20, 1940, the date of death of the said Charles F. Pace, and is to be read and received in evidence in this cause, in the same manner as if regularly offered and duly proven in the hearing of this cause.

6. It is further stipulated that the list of payments of tax to the Collector of Taxes for the District of Columbia attached hereto, and marked for identification as "Stipulation Exhibit "G" be read and received in evidence as a fact that such payments were made as set forth in said list, and that said list constitutes a true and accurate statement that the taxes set forth therein were so paid, in the same manner as if the facts contained therein were regularly offered and duly received in evidence in the hearing of this cause.

7. It is further stipulated that the statements contained in "Stipulation Exhibit H", likewise hereto attached,

the same being a letter from Oro Thompson, Financial Clerk of the United States Senate addressed to the Board under date of June 13, 1941, and relating to the employment of Charles F. Pace, deceased, by the United States Government in the District of Columbia, be read and received in evidence, as facts, in such manner as if the said statements were regularly offered and duly proven in the hearing of this cause. Also, that the said Oro Thompson, in his official capacity as Financial Clerk, is charged with the custody and control of the records pertaining to all personnel employed by the United States Senate.

8. It is further stipulated, as facts, that the amount of the tax stated in the Petition herein is the correct amount; that the Return upon which the assessment of said tax was made was duly filed, and contained the following notation upon it's face: "This return is submitted for information purposes only, as Charles F. Pace, at the time of his death, was a legal resident of and domiciled in the Town of Starke, Bradford County, State of Florida, original administration being had in said County and State": that the payment of said tax was made in due time under protest in writing; that said Petition was filed within ninety days of the assessment; and that the exhibits attached to said Petition are correct.

(signed) GEO. H. HAPP
Of Attorneys for Petitioner.

(signed) GLENN SIMMON
Asst. Corporation Counsel, D. C.
Of Attorneys for District of Columbia.

"Stipulation Exhibit A"

24 Apr 27 1940 Theodore Cogswell, Register of Wills, D. C., Clerk of Probate Court

"Exhibit No. 4"

STATE OF FLORIDA,
County of Leon.

Personally Appeared Before the undersigned authority Harold C. Wall, who, being first duly sworn, deposes and says: That at the present time affiant is Chairman of the Industrial Commission in and for the State of Florida; that affiant is the owner of The Harold C. Wall Agency, doing a general insurance business in the Town of Starke, Bradford County, Florida; that affiant, in said insurance business, carried and placed all fire and plate glass insurance on property owned by Charles F. Pace, in said Town of Starke, for the last past several years; that in this connection affiant frequently corresponded with the said Charles F. Pace; that in a letter written several years ago by the said Chales F. Pace to affiant, he, the said Charles F. Pace, stated that when he retired from his position as an employee of the United States Senate in the City of Washington, District of Columbia, he, the said Charles F. Pace, would return to his home in Starke, there to remain for the balance of his life; that the letter containing said statement aforesaid cannot be found by affiant, although affiant has diligently searched his files, and affiant therefore swears that same has been misplaced, lost or destroyed:

Affiant further says that for about nine and one-half years last past and prior to June 30, 1937, affiant was Supervisor of Registration of Bradford County, Florida, and that, in his capacity as such Supervisor of Registration, he had the custody and control and care of the registration books of Bradford County, Florida, and affiant knows of his own knowledge, that during all of said time that he, affiant, was Supervisor of Registration in and for Bradford County, Florida, the said Charles F. Pace was a duly quali-

fied elector and voter as shown by the registration books of said Bradford County, Florida.

Further affiant saith not.

HAROLD C. WALL

Sworn to and subscribed before me this 17th day of April, A. D. 1940.

RACHEL BARDIN

(Seal) *Notary Public, State of Floria at Large*

My Commission expires 7/7/41

25 "*Exhibit No. 2*"

STATE OF FLORIDA,
County of Duval.

Personally Appeared before the undersigned authority, D. D. Upchurch, who, being first duly sworn, deposes and says: that he is Vice-President of The Atlantic National Bank of Jacksonville, Jacksonville, Florida; that he has been connected with said bank continuously since its organization, to-wit: August 1, 1903, having been an officer thereof since year 1910; that he was personally acquainted with the late Charles F. Pace, who, at the time of his death, was Financial Secretary of the United State Senate, such acquaintance covering a period of some 40 years next preceding the death of said Charles F. Pace; that affiant has examined the record of said The Atlantic National Bank of Jacksonville and finds that said Charles F. Pace maintained an active checking account in said bank for a period of time extending from 1920 to the date of his death; that at the time of his death, to-wit: March 20, 1940, said Charles F. Pace had a substantial balance on deposit in said bank. Affiant further says that he knows of his own knowledge that said Charles F. Pace maintained a checking account in said bank for many years prior to 1920; that, in addition, said Charles F. Pace maintained a substantial balance on deposit in the savings department of said bank until ap-

proximately five years ago when he withdrew the deposit for investment purposes consequent upon the said bank's being required to reduce its payment of interest on savings deposit.

Affiant further says that he knows the said Charles F. Pace was a native of the State of Florida and maintained a great affection for his native state, this affection being shown in correspondence which affiant had with said Charles F. Pace over a long period of years; that said Charles F. Pace invested large sums of money in Florida real estate, both as owner and as mortgagee; that while said Charles F. Pace had been absent from the State of Florida for
26 a number of years prior to his death, this was occasioned by his official duties in Washington, D. C.;

D D UPCHURCH

Sworn to and subscribed before me this 11th day of April, A. D. 1940.

BESSIE LEE SLAUGHTER

(Seal) *Notary Public, State of Floria at Large*

My Commission expires Oct. 19, 1942.

27 "*Exhibit No. 3*"

STATE OF FLORIDA,
County of Duval.

Personally Appeared Before the Undersigned Authority, W. R. McQuaid, who, being first duly sworn, deposes and says: That he is President of The Barnett National Bank of Jacksonville, Jacksonville, Florida, and that he has known Charles F. Pace since 1897, and has corresponded with him continuously for the last twenty years or more; that on December 5, 1939, affiant received, through the United States mail, in an envelope addressed to affiant at his usual mailing address, to-wit: The Barnett National Bank of Jacksonville, Jacksonville, Florida, a letter from the said Charles F. Pace; that the photostat hereto attached and made a part hereof and marked Exhibit "A" is a true and accurate copy of said letter received aforesaid; that

affiant is familiar with the handwriting and signature of the said Charles F. Pace, and that the letter received aforesaid, photostat of said letter being attached hereto, was written by the said Charles F. Pace; that any declaration as to citizenship contained in said letter was made by the said Charles F. Pace freely and voluntarily and not on the advice of, or at the request of, affiant.

Further affiant saith not.

W. R. McQUAID

Sworn to and subscribed before me this 3rd day of April, A. D. 1940.

LOUISE BELLE HIGBEE

(Seal) *Notary Public, State of Florida at Large.*

My Commission expires July 21, 1942